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April 28, 2005

ELECTRONIC EX PARTE FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, DC 20554

Re: Spectrum Needs of Emergency First Responders, WT Docket No. 05-157

Dear Ms. Dortch:

T-Mobile USA, Inc. ("T-Mobile") submits this ex parte letter in response to the Commission's Public Notice seeking comments from interested parties as part of its study to assess the short-term and long-term spectrum needs of emergency response providers.¹ T-Mobile urges the Commission to focus its efforts on clearing existing broadcast incumbents from the 24 MHz of spectrum already allocated to public safety operations in the 700 MHz band and to ready the more than 97 MHz of spectrum available for public safety use before it considers additional allocations in the 700 MHz band.

T-Mobile actively supports the federal government's efforts to promote public safety and assist emergency responders. For example, T-Mobile, along with other CMRS operators, recently partnered with the Department of Homeland Security's ("DHS") Federal Emergency Management Agency on a pilot program called the Digital Emergency Alert System and recently announced the successful results of the study that was aimed at improving the nation's emergency alert system ("EAS"). This partnership is designed to test what capabilities may be available to the federal government via commercial wireless networks to augment existing EAS capabilities.

T-Mobile's participation in the EAS pilot study is only the latest example of its joint working relationships with public safety and emergency responders. In another partnership with the federal government, T-Mobile was instrumental in spearheading

¹ *Federal Communications Commission Requests Comment on Spectrum needs of Emergency Response Providers*, Public Notice, FCC 05-80, WT Docket No. 05-157 (rel. Mar. 29, 2005) ("Public Notice").

• • • • T • • Mobile •

Marlene H. Dortch, Secretary
April 28, 2005
Page Two

Wireless Priority Service (“WPS”). This service, administered by DHS, allows key Executive Branch personnel and emergency first responders to have priority access to our wireless network to transmit important calls during a crisis or emergency event. A DHS official characterized T-Mobile’s WPS effort as “the most successful example of government-industry cooperation that has been achieved in recent memory.”²

T-Mobile recognizes the need for government and industry to make optimal use of spectrum resources in order to promote Homeland Security while at the same time permitting the introduction of new commercial technologies and services. T-Mobile supports the Commission’s efforts to ensure that adequate spectrum is available for public safety operations, and we think the best way to do that is to clear incumbent broadcasters from spectrum in the 764-776 MHz and 794-806 MHz bands. The Commission has allocated more than 97 MHz of spectrum to public safety, largely over the last seven years, from ten different frequency bands.³ The 24 MHz of spectrum allocated in the 700 MHz band for public safety communications services is extremely important and should be fully utilized as quickly as possible.⁴

² See *T-Mobile USA Pilots Digital Emergency Alert System in Concert with FEMA, APTS, Other Carriers*, Press Release (Feb. 14, 2005) (copy attached).

³ See *Public Notice* at 3. In recent testimony before the Senate Committee on Commerce, Science, and Transportation, former Chairman Michael Powell stated that the Commission had “designated 97 MHz of spectrum from 10 different bands for public safety use.” *Public Safety Communications: Hearing Before the Senate Committee on Commerce, Science, and Transportation*, 108th Cong. (2004) (statement of Honorable Michael K. Powell, Chairman, Federal Communications Commission). The 97 MHz total includes 50 MHz of spectrum at 4.9 GHz, 9.5 MHz of 800 MHz spectrum, 13.7 MHz of spectrum in several bands governed by Part 90, and 24 MHz of 700 MHz spectrum in the 764-776 MHz and 794-806 MHz bands reallocated from television broadcast services to public safety communications services. In addition to the 9.5 MHz noted above at 800 MHz, the Commission’s 800 MHz Order allocated an average of 4.5 MHz of 800 MHz spectrum to the public safety community, particularly in some of the major markets where spectrum shortages are acute. See *Improving Public Safety Communications in the 800 MHz Band*, 19 FCC Rcd 14969, ¶ 11, Report and Order (Aug. 6, 2004). Of course, a full examination of spectrum allocations for public safety would also include an evaluation of spectrum under NTIA control.

⁴ Spectrum in the 700 MHz band is the only currently allocated spectrum that permits public safety to implement advanced mobile wide area systems that bring high speed access to databases, the intranet, imaging and video to first responders in the field, all going far beyond today’s voice and low-speed data applications. For example, paramedics can transmit live video of a patient to doctors in the hospital, firefighters can access building blueprints, and crime scene investigators can transmit live video of footprints, fingerprints and other evidence. See *Public Safety Communications: Hearing Before the Senate Committee on Commerce, Science, and Transportation*, 108th Cong. (2004) (statement of Gary Grube, Chief Technology Officer, Commercial, Government, and Industry Solutions, Motorola). Spectrum in the 700 MHz band has equally compelling advantages for commercial uses. Accordingly, the Commission must strike a proper balance between allocation of this valuable resource to the two

Marlene H. Dortch, Secretary
April 28, 2005
Page Three

The real obstacle to public safety operations is not inadequate spectrum allocation in the 700 MHz (or any other) band, but rather the inability of public safety licensees to commence operations in the band at all. Although the Commission has allocated the spectrum to public safety and adopted public safety interoperability standards, actual use of the 700 MHz band for public safety must await the digital television transition from the band. T-Mobile and others⁵ are urging that a firm deadline for the digital transition should be established so that all of the spectrum at 700 MHz can be made available for both commercial and public safety use.

The Commission should continue its commendable work to promote interoperability among public safety users in all public safety bands and to alleviate interference to public safety operators. The Commission should also encourage development of new efficient technologies that can bolster Homeland Security. Some public safety operators still use outdated, spectrally inefficient analog technology that must be updated in order to maximize the nation's ability to respond to emergencies. Rather than focus on spectrum allocations, the government should consider allocating more funds to upgrade this outdated equipment and provide additional public safety personnel.

The spectrum that is currently allocated for flexible, commercial use in the 700 MHz band, which will be available after the broadcast station transition, holds great potential for a variety of broadband and mobile applications. That spectrum, along with 3G spectrum at 1.7 GHz/2.1 GHz, can play a key role in furthering the Bush Administration's aggressive agenda to provide all Americans with access to broadband services at reasonable rates.⁶ Congress has concluded repeatedly that the public would

applications, and in doing so, should factor in the ability of commercial spectrum to be deployed on an as-needed basis for special emergencies.

⁵ T-Mobile recently joined the High Tech DTV Coalition ("Coalition"), which is advocating that Congress establish a firm deadline for the DTV transition. The Coalition's members include AT&T, Cisco Systems, Dell, IBM, Microsoft, the National Telecommunications Cooperative Association, Qualcomm, and Texas Instruments. The Coalition believes that a hard date for the DTV transition is necessary to: (1) promote growth and protect U.S. leadership in the high-tech sector; (2) promote broadband deployment in rural and underserved areas; (3) enhance public safety; (4) provide new jobs; and (5) advance consumer interests by promoting competition. See *High Tech DTV Coalition: Hard Deadline Key to Free Air Waves for Broadband, Public Safety*, Press Release (April 27, 2005) (copy attached).

⁶ In a March 26, 2004 speech, President Bush said, "This country needs a national goal for . . . the spread of broadband technology. We ought to have . . . universal, affordable access for broadband technology by the year 2007." President Bush's Technology Agenda, available at http://www.whitehouse.gov/infocus/technology/economic_policy200404/chap4.html.

• • • • T • • Mobile •

Marlene H. Dortch, Secretary
April 28, 2005
Page Four

be well served by allowing 700 MHz spectrum not now allocated for public safety purposes to be used for new commercial services. In 1997, Congress declared that the remaining 700 MHz spectrum should be available at auction for commercial purposes.⁷ Again, in the Auction Reform Act of 2002, Congress stated that the Commission should have the flexibility to auction in the 700 MHz band for “third-generation wireless and other advanced communications services.”⁸

Until public safety is able to occupy and use the substantial amounts of spectrum that already have been allocated to it in the 700 MHz band and elsewhere, it would be premature for the Commission to consider any additional public safety spectrum allocations.

Yours truly,

/s/ Thomas J. Sugrue

Thomas J. Sugrue

Vice President Government Affairs

T-Mobile USA, Inc.

⁷ See Balanced Budget Act of 1997, 105 PL 33 § 2003(C)(ii) (1997).

⁸ See Auction Reform Act of 2002, P.L. 107-195, § 2 (2002).